



Federation of State Medical Boards (FSMB) Comments on *Promoting Telehealth for Low-Income Consumers Notice of Inquiry, WC Docket No. 18-213*

The Federation of State Medical Boards (FSMB) is pleased to offer comments on the ***Promoting Telehealth for Low-Income Consumers Notice of Inquiry, WC Docket No. 18-213***. The FSMB recognizes the potential benefits of expanding connectivity to areas in need and welcomes the opportunity to provide its relevant policy report and recommendations for consideration as they pertain to telemedicine.

Founded in 1912, the FSMB is the national non-profit organization representing the 70 state medical and osteopathic boards of the United States, its territories and the District of Columbia. The FSMB serves as a resource and voice on behalf of state medical boards and provides services and initiatives that promote patient safety, quality health care and regulatory best practices.

Section 12 – Definition of Telemedicine

The FSMB would like to offer for consideration its ***Policy on the Appropriate Use of Telemedicine Technologies in the Practice of Medicine***, which was adopted in 2014 to provide much-needed guidance and a basic roadmap to support state medical boards in regulating the use of telemedicine technologies in the practice of medicine. The policy also serves to educate physicians and other health professionals as to the appropriate standards of care in the delivery of medical services using telemedicine technologies.

Among its key provisions, the policy states that the same standards of care that have historically protected patients during in-person medical encounters must apply to medical care delivered electronically. Care providers using telemedicine must establish a credible “patient-physician relationship,” ensuring that patients are properly evaluated and treated and that providers adhere to well-established principles guiding privacy and security of personal health information, informed consent, safe prescribing and other key areas of practice. The policy further defines telemedicine as “the practice of medicine using electronic communications, information technology or other means between a physician in one location, and a patient in another location with or without an intervening healthcare provider. Generally, telemedicine is not an audio-only, telephone conversation, e-mail/instant messaging conversation, or fax. It typically involves the application of secure videoconferencing or store and forward technology to provide or support healthcare delivery by replicating the interaction of a traditional encounter in person between a provider and a patient.”

The guidelines are designed to provide flexibility in the use of technology by physicians, as long as they adhere to widely recognized standards of patient care. The guidelines are advisory, meaning that medical boards are free to adopt it as is, modify it, or retain their own current policies regarding telemedicine.

The FSMB respectfully asks that the FCC consider these guidelines when determining eligibility of telehealth providers and services in this pilot program.

Sections 18 & 41 – Medical Licensing Laws and Regulations

In reviewing the *Notice of Inquiry*, the FSMB would also like to comment specifically on ***Section 18*** regarding medical licensing laws and regulations and ***Section 41*** proposing that applicants be required to include information about how they plan to comply with such laws and regulations in their applications.

The FSMB appreciates and supports this requirement, as it is the position of the FSMB that a physician (or other health care practitioner) must be licensed or under the jurisdiction of the medical (or other relevant) board of the state where the patient is located. The practice of medicine occurs where the patient is located at the time that the telemedicine technologies are utilized. Physicians who treat or prescribe through online services sites are practicing medicine and must possess appropriate licensure in all jurisdictions where patients receive care.

Each state determines its own licensing and medical practice standards that meet the individual needs of its citizens and protects patient safety by offering recourse so that improper or unprofessional care can be identified, properly reported to the state medical board of jurisdiction, and made subject of an investigation.

Conclusion

The FSMB appreciates the opportunity to comment on this *Notice of Inquiry* and welcomes the opportunity further discuss this matter. Please contact Lisa Robin, Chief Advocacy Officer, at lrobin@fsmb.org or 202-463-4000, should you have any questions.

Thank you.